

**Before the  
Federal Communications Commission  
Washington, DC 20554**

**In the Matter of**

**Rural Call Completion**

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**WC Docket No. 13-39**

**JOINT COMMENTS OF  
NTCA–THE RURAL BROADBAND ASSOCIATION  
and  
WTA – ADVOCATES FOR RURAL BROADBAND**

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NTCA–THE RURAL BROADBAND ASSOCIATION  
and  
WTA – ADVOCATES FOR RURAL BROADBAND**

**I. INTRODUCTION AND SUMMARY**

NTCA–The Rural Broadband Association (“NTCA”)<sup>1</sup> and WTA – Advocates for Rural Broadband (“WTA”)<sup>2</sup> (jointly the “Associations”) hereby submit these Comments in response to the Second Further Notice of Proposed Rulemaking in the above referenced docket.<sup>3</sup>

Calls failing to complete to rural consumers is a dangerous problem that, while never eliminated, improved significantly when the Federal Communications Commission (“FCC” or “Commission”) required originating providers to comply with recording, retention and reporting

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<sup>1</sup> NTCA represents approximately 850 independent, community-based telecommunications companies and cooperatives and more than 400 other firms that support or are themselves engaged in the provision of communications services in the most rural portions of America. All NTCA service provider members are full service rural local exchange carriers (“RLECs”) and broadband providers, and many provide fixed and mobile wireless, video, satellite and other competitive services in rural America as well.

<sup>2</sup> WTA is a national trade association representing more than 325 rural telecommunications providers that offer voice, broadband and video-related services in Rural America. WTA members are generally small RLECs that serve some of the most rugged, remote and/or sparsely populated areas of the United States. They are providers of last resort to many areas and communities that are both very difficult and very expensive to serve.

<sup>3</sup> Rule Call Completion, Second Further Notice of Proposed Rulemaking, WC Docket No. 13-39 (Rel. June 14, 2017). (“FNPRM”)

rules. Years of clarifications, warnings and admonishments reminding originating providers of their obligations to monitor their networks and ensure that rural calls complete were ineffective. Astonishingly, now that the situation has improved, the Commission proposes to retract its existing recording retention and reporting rules and rely on covered providers to monitor their networks and take action to address poor performance. The Commission proposes to return to exactly what did not work leading up to the adoption of the record keeping and reporting requirements.

The Associations urge the Commission to retain the record keeping and reporting requirements unless and until an acceptable replacement is identified, implemented and found to be effective. The public interest and the public's safety demands that the Commission take no action that could undo the progress made ensuring that rural businesses and residents are able to receive calls. To that end, the Associations recommend that the Commission require covered providers to not just monitor their intermediate providers, but actively manage their networks in accordance with industry best practices as described below.

## **II. CARRIER SELF MONITORING HAS NOT PROVEN EFFECTIVE IN ADDRESSING RURAL CALL COMPLETION PROBLEMS**

Rural call completion is a pernicious and serious problem. As the Commission has stated: "Small businesses can lose customers who get frustrated when their calls don't go through. Urgent long distance calls from friends or family can be missed. Schools may be unable to reach parents with critical alerts, including school closings due to extreme weather. And those in need of help may be unable to reach public safety officials."<sup>4</sup> The extent and ramifications of these problems, and the real costs to residential users and small businesses

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<sup>4</sup> Developing a Unified Inter-carrier Compensation Regime, CC Docket No. 01-92, Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135, Declaratory Ruling, 27 FCC Rcd. 1351 (2012) ¶ 2.

alike, cannot be understated. State regulators, members of Congress, the Commission, and rural carriers have been inundated with real-life examples of how doctors have been unable to communicate with hospitals and pharmacies; worried family members have been unable to reach sick or elderly relatives; job opportunities have been missed; and sales have been lost, to name just a few.<sup>5</sup>

Carriers have long been aware of their duty to complete calls. Yet, until the Commission created affirmative reporting obligations, the number of problems continued to escalate. The Commission has a decades-long history of reminding carriers of their obligation to complete calls, stating that carriers are prohibited from blocking, choking, reducing, or restricting traffic in any way, including to avoid termination charges.<sup>6</sup> The Wireline Competition Bureau issued a declaratory ruling back in 2007 to clarify that no carriers, including interexchange carriers, may block, choke or restrict traffic in any way, noting that the ubiquity and reliability of the nation's telecommunications network is of paramount importance.<sup>7</sup> Despite these admonishments, rural providers increasingly received complaints from subscribers who were not receiving calls. The problem grew exponentially and it was found that there was a systemic issue of calls failing to reach rural networks. NTCA first officially notified the Commission of widespread reports of

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<sup>5</sup> See e.g., Letter from Shirley Bloomfield, NTCA, to FCC Chairman Genachowski, WC Docket No. 10-90, *et al.* (filed Sept. 20, 2011); Letter from Tim Schram, Chairman, Nebraska PSC, *et al.*, to FCC Chairman Genachowski, WC Docket No. 10-90, *et al.* (filed Dec. 1, 2011); Letter from Michael R. Romano, NTCA, *et al.*, to Theresa Z. Cavanaugh and Margaret Dailey, Enforcement Bureau, FCC (filed June 13, 2011) (*Associations' June 13, 2011 Letter*). <sup>8</sup> *Supra* n.5.

<sup>6</sup> See, *Access Charge Reform*, CC Docket No. 96-262, RCC 01-146, Seventeenth Report and Order and Further Notice of Proposed Rulemaking, 16 FCC Rcd 9923, 9932-33 (2001); *Blocking Interstate Traffic in Iowa*, FCC 87-51, Memorandum Opinion and Order, 2 FCC Rcd 2692 (1987).

<sup>7</sup> *Establishing Just and Reasonable Rates for Local Exchange Carriers; Call Blocking by Carriers*, WC Docket No. 07-135, Declaratory Ruling and Order, 22 RCC Rcd 11629 (WCB 2007).

call failure in early 2011. In September of that year, the Commission created the Rural Call Completion Task Force and in October 2011, the Commission hosted a workshop on rural call routing and termination problems at which trade associations, industry representatives and state utility commissions described the issues and discussed potential solutions.<sup>8</sup> In its November 2011 Order reforming intercarrier compensation and the Universal Service Fund, the Commission again emphasized its longstanding prohibition on call blocking, reiterating that call blocking has the potential to degrade the reliability of the nation's telecommunications network and that call blocking harms consumers.<sup>9</sup>

The Commission's reminders had seemingly little impact. In March of 2011, NTCA found that 80 percent of its members reported call completion problems<sup>10</sup> and it was reported that customer reports of problems receiving calls increased by more than 2000 percent in the twelve-month period from April 2010 to March 2011.<sup>11</sup> WTA members experienced similar problems and distressing trends. Any confusion regarding a provider's responsibility to complete calls should have been rectified in February 2012 when the Wireline Competition Bureau issued a declaratory ruling to clarify the scope of the Commission's prohibition on blocking, choking,

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<sup>8</sup> See *FCC Announces Agenda for October 18 Rural Call Completion Workshop*, Public Notice, 26 FCC Rcd 14351 (2011).

<sup>9</sup> *Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing a Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-up, Universal Service Reform – Mobility Fund*, WC Docket Nos. 10-90, *et.al.* Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17903 (2011).

<sup>10</sup> See Letter from Michael Romano, Counsel for the National Telecommunications Cooperative Association (now, NTCA – The Rural Broadband Association) to Marlene H. Dortch, Secretary, FCC WC Docket Nos. 07-135. 11-39 CC Docket No. 01-92 (filed March 11, 2011).

<sup>11</sup> See Letter from National Exchange Carrier Association (NECA), NTCA, Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) and Western Telecommunications Alliance (WTA), to Theresa Z. Cavanaugh and Margaret Dailey, Investigations and Hearings Division, Enforcement Bureau, FCC (filed June 13, 2011).

reducing or restricting telephone traffic, making it clear that rural call routing practices that lead to call termination and quality problems may violate the prohibition against unjust and unreasonable practices in section 201 of the Communications Act of 1934, as amended, or may violate the section 202 duty to refrain from unjust or unreasonable discrimination in practices, facilities, or services.<sup>12</sup> In May 2012, a call-completion study based on more than 7400 call attempts found that the call incompleteness rate in rural areas remained 13 times higher than in nonrural areas.<sup>13</sup> A third survey in November 2012 found that problems with completing calls to rural areas continued at an alarming rate<sup>14</sup> and during the period September through November 2012, the Commission received informal complaints from rural residents, businesses and carriers concerning more than 500 rural call completion problems.<sup>15</sup> Despite the Commission's frequent reminders about carrier obligations and industry-developed best practices that (if followed) would certainly address the issue, there continued a systemic problem of calls failing to reach rural consumers.

In February 2013, after finding "evidence indicat[ing] that the retail long-distance providers may not be adequately examining the resultant rural call completion performance,"<sup>16</sup> the Commission sought comment on the first proposals specifically designed to combat the problem of rural call incompleteness. On November 8, 2013, the Commission released the Rural Call Completion Order, which adopted rules requiring covered providers to record, retain, and

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<sup>12</sup> *Developing a Unified Inter-carrier Compensation Regime, Establishing Just and Reasonable Rates for Local Exchange Carriers*, CC Docket No. 01-92, WC Docket No. 07-135, Declaratory Ruling, 27 FCC Rcd 1351(2012). ("2012 RCC Declaratory Ruling").

<sup>13</sup> See Letter from NECA, NTCA, OPA/STCO, and WTA to Marlene H. Dortch, Secretary, FCC WC Docket Nos 07-135, 11-39, CC Docket No. 01-92 (filed May 21, 2012).

<sup>14</sup> See Letter from Colin Sandy, Government Relations Counsel, NECA, to Marlene H. Dortch, Secretary, FCC WC Docket Nos. 07-135, 11-39, CC Docket No. 01-92 (filed Nov 15, 2012).

<sup>15</sup> NPRM, n. 34.

<sup>16</sup> NPRM ¶1.

report to the Commission call answer rates for long-distance calls.<sup>17</sup> Although the rules did not go into effect until more than TWO YEARS later, the Commission made it clear that a long-distance provider's failure "to investigate evidence of a rural call delivery problem or to correct a problem of degraded service about which [a carrier] knows or should know . . . may lead to enforcement action."<sup>18</sup>

Despite this history and Commission attention, large numbers of calls to rural areas continued not to be completed. In January 2015, the Commission's Enforcement Bureau entered into a consent decree with Verizon to resolve its investigation into the company's failure to investigate evidence it collected over the eight-month period between April and December 2013 that reflected problems with its delivery of calls to rural areas of the country.<sup>19</sup>

The recording, retention and reporting rules adopted in February 2013 took effect on March 4, 2015 and for the first time the Commission had visibility into the call routing and completion practices of long-distance providers. Contemporaneously, call completion complaints dropped significantly. But even today, more than six years after the Commission was made aware of practices that intentionally resulted in the non-completion of rural calls, problems persist. Twenty nine percent of NTCA's members who responded to a survey earlier this year

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<sup>17</sup> Rural Call Completion, Report and Order and Further Notice of Proposed Rulemaking 28 FCC Red at 16154, 16211-14, Appendix A (2013) ("Rural Call Completion Order").

<sup>18</sup> Rural Call Completion, Order on Reconsideration, WC Docket No. 13-39 (Rel. Nov. 13, 2014).

<sup>19</sup> Verizon, Consent Decree and Adopting Order, File NO.: EB-IHD-14-00014821, Acct. No.: 201532080007, FRN: 0004335592 (Rel. January 26, 2015). Rural call completion Consent Decrees were also entered into with Level 3 Communications, LLC and Windstream Corporation.



reported experiencing rural call completion problems within the most recent month, with more than 10% reporting that problems recur on a weekly basis.<sup>20</sup>

The Commission has repeatedly made it clear that providers have an obligation to monitor their networks, including the use of their intermediate providers, but the mere “obligation” has never worked. Only meaningful rules and effective enforcement can effectively address and resolve rural call completion problems.

### **III. THE DATA RECORDING, RETENTION AND REPORTING RULES HAVE BEEN RELATIVELY EFFECTIVE AND SHOULD BE RETAINED UNLESS OR UNTIL AN EFFECTIVE REPLACEMENT IS IDENTIFIED AND IMPLEMENTED**

Nothing the Commission or rural carriers did up to the point of the Rural Call Completion Order becoming effective helped to ensure that calls to rural customers and businesses were properly completed. It was the act of complying with the rules (or a Consent Decree) and the visibility it provided, combined with the threat of enforcement action, that forced originating providers to improve their procedures and adjust their network performance practices to ensure that rural calls were completed appropriately.

The record keeping and reporting requirements were adopted “to address significant concerns about completion of long-distance calls to rural areas” and to “ensure that long-distance calls to all Americans, including rural Americans, are completed.”<sup>21</sup> The Bureau was directed to issue a report on the “effectiveness” of the rules. Effectiveness would be achieved if, on aggregate, calls to rural Americans completed at an improved rate. They did and the rules accomplished the goal. Given the two-year lapse between when the rules were adopted and when they were implemented, it is unsurprising that measures remained stable throughout the

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<sup>20</sup> The Commission also found that during the reporting period the call answer rate in rural areas was lower than in nonrural areas and there was a difference in covered providers’ median call answer rates in rural and nonrural areas. Report, p. 2.

<sup>21</sup> Rural Call Completion Order, ¶1.

reporting period and it is a positive finding, reinforcing the effectiveness of the Commission’s rules. There is only one reasonable and credible explanation for providers finally improving their performance – the existence of the record keeping and reporting requirements and associated “safe harbor.”

The Commission adopted its rural call completion data collection and reporting requirements not only to “address significant concerns about the completion of long-distance calls to rural areas<sup>22</sup> but also because the long-distance providers previously “[did] not collect and retain information on failed call attempts that is necessary . . . to analyze rural call performance relative to overall performance or to distinguish the performance of intermediate providers in delivering calls to rural areas” and because the lack of data “impeded Enforcement Bureau investigations.”<sup>23</sup> The Commission rules forced providers to gather the data necessary to monitor their networks or abide by a safe harbor and to enable the Commission to determine which individual carriers were failing to complete calls. Data quality issues may have “hindered the Commission’s ability to use the data as the sole basis for initiating enforcement actions against covered providers,”<sup>24</sup> but before the data, there was seemingly no basis for initiating enforcement actions.

There is no question that the number of rural call completion complaints dropped substantially when the requirements were implemented. Rural call completion complaints to the Commission decreased from 2015 to 2016 (by 57 percent for complaints filed by consumers and by 45 percent for complaints filed by rural carriers).<sup>25</sup> The rules shined a necessary spotlight on

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<sup>22</sup> Report, ¶ 1

<sup>23</sup> Rural Call Completion, Notice of Proposed Rulemaking, WC Docket No, 123-39, pp. 6-7 (Rel. Feb. 7, 2013) (“NPRM”).

<sup>24</sup> FNPRM, ¶7

<sup>25</sup> Report, ¶ 19.

individual providers such that they were forced to change their practices. As a rule, the Associations do not advocate for unnecessary regulation or record keeping that is overly burdensome or serves no useful purpose, but the requirements at issue worked effectively and efficiently despite data quality issues noted in the Commission's Report. Indeed, the adage "sunlight is the best disinfectant" seems wholly appropriate in this instance. Rather than eliminating the reporting rules in their entirety, the Commission should modify certain record keeping and reporting requirements so that measures that correlate with complaints are retained. Retaining a streamlined record keeping and reporting requirement and combining it with requirements that have been shown to ensure network performance would preserve incentives that exist because of the "sunshine" of the current reporting requirements. Doing so would also improve the information of the reports and reduce the burden of submitting them, while ensuring that calls complete to rural consumers and businesses.

The deliberate non-completion of rural calls is a very serious problem, and often a very dangerous one that can lead to unnecessary tragedies. The public interest demands that the Commission address and fix the problem, and especially that it take no action that will exacerbate the situation. History has shown that carriers are unlikely to police themselves on this issue and removing or waiving the rules,<sup>26</sup> absent suitable and effective replacements, is likely to lead to backsliding. If the Commission determines that other regulatory requirements can and do effectively address the problem of calls failing to reach rural consumers, then, and only then, should the Commission take the drastic step of eliminating rules that effectively addressed a systemic, profitable, but preventable flaw in the network management practices of originating providers.

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<sup>26</sup> The Associations expressly opposes the CTIA Waiver Request filed with the Commission July 6, 2017.

#### **IV. THE COMMISSION SHOULD MANDATE CARRIER BEST PRACTICES THAT ARE KNOWN TO MITIGATE CALL COMPLETION PROBLEMS**

The industry is in agreement that “call completion . . . depends on coordination between different service provider entities, each playing their part in setting up a workable connection between calling and called parties.”<sup>27</sup> Although the Alliance for Telecommunications Industry Solutions (“ATIS”) Handbook states that “some carriers” suggest that call completion problems involve the use of intermediate providers, there is little dispute about that fact.<sup>28</sup> While calls can fail for a variety of reasons, poor, careless or unduly parsimonious network management has been the cause for the vast majority of rural call completion problems. There is a financial incentive for originating providers to find the least expensive intermediate providers to route calls, in many cases using chosen intermediaries even where the originating provider has adequate facilities to complete the call itself. Given the few and comparatively low cost of penalties for failing to comply with mandates to ensure that calls complete, there remains, absent ongoing regulatory oversight, little incentive to ensure that intermediate providers complete calls to rural areas properly.

The Commission seeks comment on its proposal to “require covered providers to monitor the rural call completion performance of their intermediate providers and to hold them accountable for such performance.”<sup>29</sup> Concurrent with this proposal are questions about whether the Commission should specify metrics or leave it to the discretion of covered providers.<sup>30</sup> This proposal is woefully inadequate as covered providers have a proven track record of not

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<sup>27</sup> ATIS Standard on Inter-carrier Call Completion/Call Termination Handbook, ATIS-0300106, p. 1. (October 2015) (ATIS Handbook”).

<sup>28</sup> See, numerous comments filed in WC Docket 13-39, ATIS Handbook.

<sup>29</sup> FNPRM, ¶ 14.

<sup>30</sup> *Id.*, ¶ 16.

monitoring their networks or the networks of their intermediate providers, despite YEARS of admonishments and warnings from the Commission. The Commission must go further and require not just monitoring of performance, but active *management* (as it is described by ATIS)<sup>31</sup> of performance. The Commission should finally and definitively address rural call (in)completion by requiring covered providers to abide by industry best practices that impose minimal burdens, but have been shown to be effective.

Through its Next Generation Interconnection Interoperability Forum (“NGIIF”),<sup>32</sup> the ATIS, in recognition of the problem of rural call completion and the risk it poses to the integrity of the public switched telephone network, released a standard and handbook on intercarrier call completion and call termination (“RCC Handbook”).<sup>33</sup> It offers “best practices for ensuring call completion, especially in the management of intermediate or underlying carriers.”<sup>34</sup>

The Commission presumably recognizes the value of compliance with industry identified best practices regarding the management of intermediate providers, seeking comment on some of them.<sup>35</sup> The Commission questions whether it should require covered providers to mandate that their intermediate providers comply with ATIS identified best practices 6.3 (prohibiting intermediate providers from engaging in “call looping”), 6.4 (requiring intermediate providers to “crank back” a call to the originating carriers rather than dropping it, and 6.6 (prohibiting intermediate providers from processing calls so as to “terminate and re-originate” them).<sup>36</sup> The

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<sup>31</sup> ATIS Handbook, § 6.

<sup>32</sup> NGIIF is a cooperative forum of carriers, customers and manufacturers where companies work together to develop operational procedures that involve among other things the network management, reliability and call routing. Most of the largest covered providers are members of the ATIS NGIIF.

<sup>33</sup> ATIS Standard on Intercarrier Call Completion. Call Termination Handbook, ATIS-0200106 (Oct. 2015) (“RCC Handbook”).

<sup>34</sup> RCC Handbook, p.1.

<sup>35</sup> *Ibid.*

<sup>36</sup> *Ibid.*

Associations support requiring covered providers to comply with all of the best practices identified in Section 6, “Management of Intermediate Providers,” of the ATIS Handbook.<sup>37</sup>

**A. Covered Providers should be required to Manage the Number and Identity of Intermediate Providers**

Section 6.2 of the ATIS Handbook recognizes that “as the number of providers handling a call increases, there is the potential for lengthier call setup delay, call failures or other impairments. Troubleshooting may also prove more difficult.”<sup>38</sup> The identified best practice is to limit intermediate providers to include no more than one additional provider in the routing of a call and to insist on transparency with respect to who is handling traffic. This allows originating providers to be aware of which underlying carriers are involved in handling their traffic and to better manage call completion issues. Limiting the number of intermediate providers has proven to reduce the number of call failures.<sup>39</sup>

This best practice is the bedrock of the record keeping and reporting “safe harbor” and it, combined with record keeping and reporting requirements, appears to have had a great impact, mitigating call completion issues.<sup>40</sup> The safe harbor permits covered providers to avoid the bulk of the record keeping and reporting requirements if they restrict by contract any intermediate provider to which a call is directed from permitting more than one additional intermediate provider in the call path before the call reaches their terminating provider or terminating tandem

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<sup>37</sup> While mandating that covered providers follow all ATIS best practices should help reduce rural call completion issues, separate performance analysis for each underlying carrier is necessary to ensure consistent performance. At a minimum, this should include the call answer rate and the network effectiveness ratio and any other metric that may be deemed effective (e.g., Verizon repeat attempt metric, Presented at Rural Call Completion Workshop on March 29, 2017, filed in *ex parte* letter in WC Docket 13-39 (April 26, 2017).

<sup>38</sup> ATIS Handbook, § 6.2

<sup>39</sup> Report, ¶ 36.

<sup>40</sup> See, Rural Call Completion Safe Harbor Certification of AT&T, WC Docket No. 13-39 (filed July 24, 2017), Rural Call Completion Safe Harbor Certification of CenturyLink, WC Docket No. 13-39 (filed July 24, 2017).

and monitor intermediate performance.<sup>41</sup> AT&T and CenturyLink have certified their compliance with the safe harbor<sup>42</sup> and Verizon is similarly bound by the terms of its consent decree.<sup>43</sup> Thus, the nation's largest providers, with a combined nearly 70% of the long-distance market share and 70% of the wireless market share, are currently limiting their use of intermediate providers.

CenturyLink reports that its safe harbor approach of “seek[ing] to limit routing to just one hop” has been effective in addressing call completion issues. It states that complaints have dropped dramatically, declaring, “[a]ny complaint is now a rarity.” The Commission has direct evidence that limiting the number of “hops” in a call path and requiring transparency of intermediate providers by contract is effective. Consistent with the success of the safe harbor, the Commission should require the following: (1) covered providers must restrict by contract any intermediate provider to which a call is directed from permitting more than one additional intermediate provider in the call path before the call reaches the terminating provider or terminating tandem; (2) any nondisclosure agreement with any intermediate provider must permit the covered provider to reveal the identity of the intermediate provider and any additional intermediate provider to the Commission and to the rural LEC(s) whose incoming long-distance calls are affected by the intermediate provider's performance; and (3) the covered provider must have a process in place to monitor the performance of its intermediate providers.

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<sup>41</sup> See, Rural Call Completion Safe Harbor Certification of AT&T, WC Docket No. 13-39 (filed July 24, 2017), Rural Call Completion Safe Harbor Certification of CenturyLink, WC Docket No. 13-39 (filed July 24, 2017).

<sup>42</sup> See, Rural Call Completion Safe Harbor Certification of AT&T, WC Docket No. 13-39 (filed July 24, 2017), Rural Call Completion Safe Harbor Certification of CenturyLink, WC Docket No. 13-39 (filed July 24, 2017).

<sup>43</sup> Verizon Consent Decree, p. 9.

While it may be appropriate to clarify that incidental or *de minimis* use of a third intermediate provider during network congestion or outages is not in conflict with this rule,<sup>44</sup> the *de minimis* exception should be well defined and encompass no more than 1% of all traffic terminating to a rural carrier. Further, the rule should apply to traffic destined to any rural incumbent LEC or any competitive LEC that the covered provider is aware of or should be aware of, as described in Section V below.

## **B. Other Potential Rules to Address Rural Call Completion**

*Codification of Existing Prohibitions.* The Associations do not oppose the formal codification of existing prohibitions of practices that are intended solely or primarily to reduce or prevent rural call completion.<sup>45</sup> For example, practices such as the use of false audible ringing to mask the silence that the caller would otherwise hear during excessive call setup time during which time the caller may often hang up, thinking nobody is available to receive the call, is expressly prohibited in the Commission's Rules. Such express prohibitions can make it easier for the Commission to impose and collect substantial forfeitures for use of such practices.

However, express prohibitions in Rules do not constitute a comprehensive solution to rural call completion issues. A primary problem is that express prohibitions have historically been too narrow and inflexible to keep up with the stratagems, loopholes, end runs and other tactics that are continually being developed to evade or avoid rules in highly competitive and difficult-to-regulate businesses such as least cost routing and long distance toll services. The Commission can (and perhaps should) prohibit the five or ten practices most likely to adversely impact the completion of rural calls. However, whereas such prohibitions will convince some

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<sup>44</sup> FNPRM, ¶ 32.

<sup>45</sup> FNPRM, ¶ 33.



companies to complete their rural calls, it is equally likely that others will develop new avoidance tactics that are not explicitly covered by the existing regulatory prohibitions.

*Requirements on Terminating Providers.* The RLECs represented by the Associations and their rural customers are the predominant victims of schemes and practices that lead to the non-completion of rural calls. They are willing to assist in the discovery and investigation of non-completion practices in any way they can be effective.

Unfortunately, deliberately non-completed rural calls never reach the networks of the affected RLECs so that they have no direct way of discovering a call completion problem, or measuring its extent. RLECs normally find out about call completion problems when customers notify them that business associates, friends or relatives from outside the area have been trying to call them and have been unsuccessful in getting through even at times when the customer was home and not on the telephone. Whether formally required to do so or not, RLECs should be collecting this information; determining the locations of the callers, the identities of their presubscribed long distance carriers, and the approximate periods or times when calls were not able to be completed; and reporting this non-completion information to the Commission. The Associations do not oppose a formal rule requiring RLECs and rural CLECs to report known or reasonably suspected instances of call non-completion, and to provide certain readily ascertainable information that will help the Commission investigate such instances.<sup>46</sup>

The Associations also do not oppose Comcast's recommendation that RLECs be required to activate test lines in their end offices that originating and intermediate providers can use to conduct fully automated testing.<sup>47</sup> However, they note that any requirement for such test lines should include provisions to assure that they are not bombarded with simultaneous test calls.

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<sup>46</sup> FNPRM, ¶ 34,

<sup>47</sup> Ibid.

Most test lines can only answer a few simultaneous incoming calls, and some can only handle one call at a time. Multiple carriers testing the same test line concurrently may produce false positives resulting in unnecessary investigation and follow-up by the originating carrier and the RLEC. One possible approach would be to establish certain days or time periods when each covered provider or its intermediate providers could make test calls if the originating carrier wishes.

*Requiring covered providers to provide and maintain updated contact information.* The Commission questions whether it should require covered providers to provide and maintain updated information with the Commission on a point-of-contact within the company that is responsible for addressing rural call completion complaints and whether that contact information should be publicly available.<sup>48</sup> The short answer is: it should. Rural providers often report that they have no way to contact the responsible originating carrier or if they do, the person they contact has little to no understanding of the issue.<sup>49</sup> Although ATIS maintains a contact list, it is voluntary and contains contact information for a limited number of covered providers. Mandating that all covered providers provide and maintain a point-of-contact would greatly facilitate and expedite call completion complaint resolution.

## **V. RURAL CALL COMPLETION REGULATIONS SHOULD APPLY WITH EQUAL FORCE TO CALLS DESTINATED FOR CUSTOMERS OF COMPETITIVE RURAL LOCAL EXCHANGE CARRIERS**

The Associations' members have noticed an uptick in calls failing to complete to customers of their rural competitive local exchange carriers ("CLECs")<sup>50</sup>. The proffered excuse

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<sup>48</sup> FNPRM, ¶ 19.

<sup>49</sup> See, *ex parte* letter of NTCA – the Rural Broadband Association in WC Docket No. 13-39 (Feb 23, 2016).

<sup>50</sup> Of the nearly 75% of NTCA's members who have reported call completion problems in the past year, 11% report that the problems involve calls destined to their CLECs. Members report

is typically that the lack of a rural identifier leaves the originating provider with no means of identifying calls destined to rural CLECs. The excuse is offered even when the originating provider was previously made aware that calls to a particular rural CLEC were failing and it has actual knowledge that an Operating Company Number (“OCN”) is associated with a rural CLEC. The relevant rules do not provide an exception for calls destined to rural CLECs, and in fact, the Commission has specifically clarified that it is an unjust or unreasonable practice for a carrier that knows *or should know* that it is providing degraded service to certain areas to fail to correct the problem or fails to ensure that intermediate providers are performing adequately.<sup>51</sup>

To address this problem, the Commission should make publicly available a list of OCNs identified with rural CLECs. This list should be continuously updated and consist of OCNs for which the Commission has previously received, or in the future receives, call completion complaints, combined with a list of OCNs that rural carriers submit in response to a voluntary FCC data collection and those that rural providers otherwise make available to the Commission for publication. Until such a list is publicly available, the Commission should make clear that covered providers are responsible for keeping their own list of rural OCNs (of which it is aware or should be aware – *i.e.*, by virtue of a previous complaint) for which it will comply with all rural call completion regulations and protocols.

## **VI. CONCLUSION**

Based on the foregoing, the Commission should retain its current recording, retention and reporting rules unless and until such time as a demonstrably effective replacement is implemented. Relying on providers to monitor their intermediate providers was tried, but did not

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anecdotally that problem of calls failing to reach rural CLECs tend to recur with even more frequency that calls to rural incumbent LECs.

<sup>51</sup> 2012 RCC Declaratory Ruling, 27 FCC Rcd at 1355-58, ¶¶ 12,14.

prove effective in addressing rural call completion problems. Rather than risk backsliding, the Commission should require covered providers to actively manage their networks and comply with ATIS best practices.

Respectfully submitted,



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